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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,377	08/28/2000	Sergey Matasov		9553

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EXAMINER

LEUBECKER, JOHN P

ART UNIT	PAPER NUMBER
	3739

DATE MAILED: 11/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/509,377	MATASOV, SERGEY
	<b>Examiner</b>	<b>Art Unit</b>
	John P. Leubecker	3739

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 August 2002.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3, 7 and 8 is/are rejected.
- 7) Claim(s) 4-6 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

***Specification***

1. The disclosure is objected to because of the following informalities:
  - a) on page 4, line 2, the sentence "The unit cylinder /piston can be placed by sylphon," appears to be incomplete. In addition, the term "unit cylinder/piston" should more properly be --cylinder/piston unit--. This change should also be made in claim 7. Appropriate correction is required.

***Claim Objections***

1. The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

2. Claims 2, 3, 6 and 8 are objected to because of the following informalities:
  - a) in claim 2, the phrase "placed with a gap 25 to an endoscopic tube 3" is confusing. Suggested:-- defining a gap (25) between the cylinder and the endoscopic tube (3)--
  - b) in claim 3, the phrase "placed with a gap 14 in a shell 22, whose distal end" is confusing. Suggested: --placed in a shell (22) with a gap (14) there between, a distal end of the shell (22)--; also, in line 2, delete the word "but"

- c) in claim 6, line 1, --the-- should be inserted before "endoscopic"
- d) in claim 8, phrase "of biopsy channel of endoscopic tube" should be --of a biopsy channel of the endoscopic tube--; phrase "with traction line" should be --with a traction line--.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 2 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 2 recites that working pressure maintains gap 25. The specification fails to disclose this. Instead, on page 5, the last full paragraph describes working pressure is applied to cavity 14.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 6, "the opposing spring" lacks antecedent basis. Suggested: --an opposing spring--.

As to claim 7, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

As to claim 8, term "the body" lacks antecedence. Suggested: --a body--. Term "the transformer of pressure" lacks antecedent basis. The phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

### *Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Bob et al. (U.S. Pat. 5,259,364).

Bob et al. disclose an endoscopic tube (2) and an invaginator (24). As shown by Figure 2, the invaginator (24) would be gathered on the distal end (as the endoscopic tube

enters the anus 30) by pleats (52)(col.5, lines 7-9). As to claim 2, the pleats (52) form a compact hollow cylinder which defines a gap (note space between pleats (52) and endoscopic tube (2) in Figure 2) that is maintained under working pressure (col. 5, lines 18-22). As to claim 3, pressure chamber (50) meets the limitation of a shell including a gap between and the invaginator (24). The distal end (28) of the shell is joined with an everted end (26) of the invaginator (Fig.2) and the proximal end forms a projection (note horizontally extending back wall 54).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bob et al. in view of Chikama (U.S. Pat. 4,721,099).

Bob et al. teaches that the disclosed evertng tube mechanism is “suited for all kinds of endoscopes” and particularly suited for colonoscopes. However Bob et al. fails to provide all the particulars of the endoscopic tube (2), and particularly that it includes a bending mechanism with cylinder/piston units and traction lines. Chikama shows that such a bending mechanism is known in an endoscope (note Figures 8 and 21, for example). Since any endoscope could be used in the invention of Bob et al. and endoscopes with the particular bending mechanism as claimed are known, it would have

been obvious to the skilled artisan to have used any known endoscope, including the one disclosed by Chikama and the endoscope in the Bob et al. invention. This would allow the distal end of the endoscope to be bent for easier negotiation of sharp turns in the colon and intestines.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bob et al. in view of Tovey et al. (U.S. Pat. 5,643,294).

Bob et al. disclose that endoscopes are known "as a rule" to include a working channel for the introduction of forceps (e.g., "small pliers for taking tissue samples) (col.1, lines 33-38). Since Bob et al. states that any endoscope can be used in the invention, as pointed out above, Bob et al. contemplates use of an endoscope with a forceps tool. However, such generalization fails to provide the particulars of the forceps tool. Thus, it would be obvious to one of ordinary skill in the art to use any known forceps when reducing the Bob et al. invention to practice. Tovey et al. teaches that there is known a forceps tool that comprises a flexible tube (132), a distal piston (156), a proximal piston (52) and a traction line (134) (note col.8, lines 17-21 and Figures 2, 5 and 9).

#### *Allowable Subject Matter*

12. Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Grndl et al. (U.S. Pat. 5,586,968), Viebach et al. (U.S. Pat. 6,077,219), Fogarty et al. (U.S. Pat. 6,068,639) and Mollenauer (U.S. Pat. 5,797,947)--note everting tube systems.

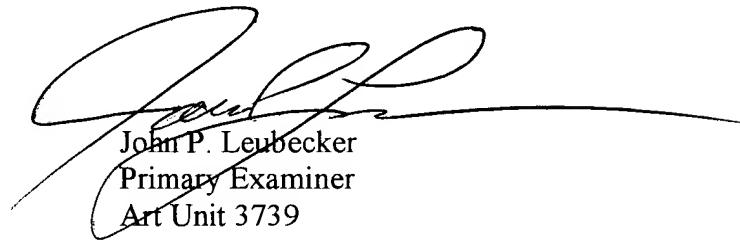
14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (703) 308-0951. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (703) 308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3590 for regular communications and (703) 305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.



John P. Leubecker  
Primary Examiner  
Art Unit 3739

jpl  
November 18, 2002